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Attorney Docket No.: **Google-115 (GP-089-03-US)**

Appl. No.: **10/676,195**

Appellant: **Andrew FIKES, et al.**

Filed: **September 30, 2003**

Title: **SYSTEM AND METHOD FOR AUTOMATICALLY TARGETING
WEB-BASED ADVERTISEMENTS**

TC/A.U.: **1751**

Examiner: **Tri V. Nguyen**

Mail Stop Appeal Brief-Patents
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P.O. Box 1450
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S I R:

APPEAL BRIEF

Further to the Notice of Appeal filed on February 5, 2007, which set a period for response to expire on April 5, 2007, that period being extended three months to expire on July 5, 2007, the appellant requests that the Board reverse all outstanding grounds of rejection in view of the following.

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I. Real Party In Interest

The real party in interest is Google Inc. An assignment of the above-referenced patent application from the inventors to Google Inc. was recorded in the Patent Office starting at Frame 0271 of Reel 015864.

II. Related Appeals and Interference

There are no related appeals or interferences.

III. Status of Claims

Claims 2-6, 8-15, 17-28 and 30 are pending.

Claims 2-6, 8-15, 17-28 and 30 are rejected. Specifically, claims 2-5, 8-15, 17-19, 21-28 and 30 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by U.S. Published Patent Application No. 2003/0050863 ("the Radwin publication"). Claims 6 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over the Radwin publication.

The foregoing rejections of claims 2-6, 8-15, 17-28 and 30 are appealed.

IV. Status of Amendments

There have been no amendments subsequent to the final Office Action (Paper No. 20060925).

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V. Summary of the Claimed Subject Matter

Independent claim 2 claims a system for automatically targeting Web-based advertisements (See, e.g., Figure 2, page 7, lines 5-16, and page 12, lines 6-18.), comprising (a) an indexer (See, e.g., Figure 2, element 35, page 8, line 24 through page 9, line 25, Figure 8, block 121, and page 17, lines 9-12.) to identify advertisements (See, e.g., Figure 2, element 45.) relative to a query (See, e.g., Figure 2, element 39.), wherein identified advertisements describe characteristics relative to at least one of a product and a service (See, e.g., Figure 3, elements 62-70 and page 12, line 19 through page 13, line 26.); (b) a scorer to score the advertisements according to match between the query and the characteristics of the identified advertisements (See, e.g., Figure 2, element 36, page 9, line 26 through page 10, line 23, Figure 4, page 13, line 27 through page 14, line 13, Figure 8, block 122 and page 17, lines 12-20.); and (c) a targeting component to provide at least some of the advertisements as Web-based content, wherein a numerical score is assigned to the identified advertisements based on a degree of the match (See, e.g., Figure 2, elements 34 and 50, page 7, line 17 through page 8, line 22.).

Independent claim 6 recites system for automatically targeting Web-based advertisements (See, e.g., Figure 2, page 7, lines 5-16, and page 12, lines 6-18.), comprising (a) an indexer (See, e.g., Figure 2, element 35, page 8, line 24 through page 9, line 25, Figure 8, block 121, and page 17, lines 9-12.) to identify advertisements (See,

e.g., Figure 2, element 45.) relative to a query (See, e.g., Figure 2, element 39.), wherein identified advertisements describe characteristics relative to at least one of a product and a service (See, e.g., Figure 3, elements 62-70 and page 12, line 19 through page 13, line 26.); (b) a scorer to score the advertisements according to match between the query and the characteristics of the identified advertisements; (See, e.g., Figure 2, element 36, page 9, line 26 through page 10, line 23, Figure 4, page 13, line 27 through page 14, line 13, Figure 8, block 122 and page 17, lines 12-20.); (c) a targeting component to provide at least some of the advertisements as Web-based content (See, e.g., Figure 2, elements 34 and 50, page 7, line 17 through page 8, line 22.); and (d) a filter to filter the identified advertisements relative to at least one of a country, locale, language, and daily budget (See, e.g., Figure 2, element 37, Figure 8, block 123, and page 17, lines 21-26.).

Independent claim 8 recites a system for automatically targeting Web-based advertisements (See, e.g., Figure 2, page 7, lines 5-16, and page 12, lines 6-18.), comprising (a) an indexer (See, e.g., Figure 2, element 35, page 8, line 24 through page 9, line 25, Figure 8, block 121, and page 17, lines 9-12.) to identify advertisements (See, e.g., Figure 2, element 45.) relative to a query (See, e.g., Figure 2, element 39.), wherein identified advertisements describe characteristics relative to at least one of a product and a service (See, e.g., Figure 3, elements 62-70 and page 12, line 19 through page 13, line 26.); (b) a scorer to

score the advertisements according to match between the query and the characteristics of the identified advertisements (See, e.g., Figure 2, element 36, page 9, line 26 through page 10, line 23, Figure 4, page 13, line 27 through page 14, line 13, Figure 8, block 122 and page 17, lines 12-20.); (c); a targeting component to provide at least some of the advertisements as Web-based content (See, e.g., Figure 2, elements 34 and 50, page 7, line 17 through page 8, line 22.); (d) a ranker to rank the identified advertisements using a selection criteria and ordering at least some of the ranked identified advertisements (See, e.g., Figure 2, element 38, page 10, line 24 through page 11, line 2, Figure 8, block 130 and page 18, lines 9-15.); and (e) a selector to select at least some of the ordered identified advertisements relative to a ranking cutoff (See, e.g. Figure 4, element 84, page 9, line 26 through page 10, line 5, and page 13, line 27 through page 14, line 13.).

Independent claim 15 recites a method for automatically targeting Web-based advertisements, comprising (a) identifying advertisements relative to a query (See, e.g., Figure 8, block 121 and page 17, lines 9-12.), wherein identified advertisements describe characteristics relative to at least one of a product and a service (See, e.g., Figure 3, elements 62-70, and page 12, line 19 through page 13, line 26.); (b) scoring the advertisements according to a degree of a match between the query and the characteristics of the identified advertisements (See, e.g., Figure 8, block 122 and page 17, lines 12-20.); and (c) providing at least some of the

advertisements as Web-based content (See, e.g., Figure 8, block 131 and page 18, lines 15-17.).

Independent claim 30 recites an apparatus for automatically targeting Web-based advertisements, comprising (a) means for identifying advertisements relative to a query (See, e.g., page 12, lines 6-18, Figure 8, block 121 and page 17, lines 9-12.), wherein identified advertisements describe characteristics relative to at least one of a product and a service (See, e.g., Figure 3, elements 62-70, and page 12, line 19 through page 13, line 26.); (b) means for scoring the advertisements according to a degree of a match between the query and the characteristics of the identified advertisements (See, e.g., page 12, lines 6-18, Figure 8, block 122 and page 17, lines 12-20.); and (c) means for providing at least some of the advertisements as Web-based content (See, e.g., page 12, lines 6-18, Figure 8, block 131 and page 18, lines 15-17.).

VI. Grounds of Rejection to be Reviewed on Appeal

The issues presented for review are whether:

- (1) (separately patentable and argued groups of) claims 2-5, 8-15, 17-19, 21-28 and 30 are anticipated by the Radwin publication; and
- (2) claims 6 and 20 are patentable over the Radwin publication.

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JUL 05 2007**VII. Argument**

The appellant respectfully requests that the Board reverse the final rejection of claims 2-6, 8-15, 17-28 and 30 in view of the following.

Rejections under 35 U.S.C. § 102

Claims 2-5, 8-15, 17-19, 21-28 and 30 stand rejected under 35 U.S.C. § 102(e) as being anticipated by the Radwin publication. The appellant respectfully requests that the Board reverse this ground of rejection in view of the following. Concisely, the Radwin publication nowhere discloses scoring advertisements based on a **degree of match** between a query and characteristics of the advertisements, nor does it disclose **applying thresholds** to ranked or scored advertisements.

Before addressing at least some of the patentable features of the claimed invention, the Radwin publication is introduced. The Radwin publication concerns serving both "immediate" ads, and "time-dependent" ads. An immediate ad is presented with an associated search results page, while a time-dependent ad is presented with a web page presented to a user after the display of the search results page (until a period of time expires). (See, e.g., the Abstract.) An immediate ad is determined based on a current search query, while a time-dependent ad is determined based on past search query information stored in a user profile.

Referring to both Figures 2 and 6 of the Radwin publication, a user's search query, which has one or more search terms, is accepted by a web server. The user's

search terms and characteristics (e.g., time and date) of the search term (not the advertisement) are stored and indexed for later use to present time-dependent advertisements associated with the search terms. Each search term is associated with a time stamp, as a characteristic of the search term, for determining when the search term is to no longer to be used for selecting a time-dependent advertisement based upon the particular search term. (See, e.g., paragraph [0053].)

Immediate (also referred to as "keyword targeted") ads may be determined as follows according to the Radwin publication. One or more received search terms are matched against keyword terms stored in an advertisement database (See, e.g., the search term index 24 of Figure 4 and the ad repository 20 of Figure 5.) to determine which advertisement will be presented as an immediate (i.e., keyword) advertisement. Such matching is performed, for example, by comparing each character of a text string representing the search terms with that of a text string representing the stored keyword terms. In determining the immediate (i.e., keyword) advertisement, matching is limited to those advertisements which are designated as keyword advertisements. (See, e.g., the keyword flags 45 that are "set" in Figure 5.) Finally, search results generated, for example, by a search engine 52 are presented to the user along with the determined immediate ad. (See, e.g., paragraphs [0053] and [0054].)

Suppose that the user selects another web page to view as in the Radwin publication. The selected web page, when displayed, contains information associated with the search term queries and is accompanied by a time-dependent ad which may have been determined as

follows. Previous search terms (e.g., stored in a user profile) are fetched (if the time stamp indicates that the search term has not expired). The previous search terms are matched against non-keyword terms (i.e., not flagged as a keyword term) to determine a sub-set of ads eligible for presentation as a time-dependent advertisement.

Then, according to the Radwin publication, a single time-dependent ad is selected from this sub-set of ads **by determining which of the advertisements in the sub-set is optimal for presentation**. The selection process might (a) filter out ads that are not related to a previously stored search term (i.e., advertisements not associated with advertisement types related to certain terms), (b) maximize revenue, and/or (c) meet guaranteed minimum impression quotas. The selected time-dependent ad is then presented to the user accompanied with the content of the other, selected, web page. (See, e.g., paragraphs [0055] and [0056].) As detailed below, these methods do not employ a **degree of match** between the query and the advertisement. Also as explained below, the Radwin publication does not teach using a threshold for selecting ads for display: instead, a single top advertisement is selected.

Referring to Figure 5 of the Radwin publication, note that the keyword flag 45 indicates whether a specific advertisement is to be presented when a certain search term is used to provide the results of a search query. For example, for keyword term "France", ad Bn (such as an advertisement for a French auto rental agency) is set to 1 to indicate that ad Bn is to be presented with the search results page. Such keyword

terms are generally subject to an exclusive contract prohibiting other advertisements from being shown when a particular keyword search term is queried, whether alone or in combination with other terms. (See, e.g., paragraph [0045].)

Still referring to Figure 5 of the Radwin publication, an ad importance weighting value 47 is either set automatically, or by an editorial staff member, to indicate how valuable and/or relevant a particular ad type or ad is relative to other ad types and ads. The importance weighting value 47 of a particular ad associated with an ad type might be adjusted based on external events or the significance of an ad. For example, if the number of impressions of an ad under a CPM arrangement is predicted to be below guaranteed minimum, an appropriate ad importance weighting value may be assigned to that ad. If a higher importance weighting is assigned to the ad, the ad will have a relatively higher probability of being selected than otherwise. For example, as shown in Figure 5, since advertisements A1 and An are not keyword advertisements, they have a lower probability of being presented as a keyword flagged A2. Since, however, An has been assigned an importance weighting of 9, it might be shown before advertisement A1. Other weighting factors might override the importance weighting, or be combined with it to form an overall weighting. (See, e.g., paragraph [0041].) However, as detailed below, the Radwin publication does not disclose altering the importance weighting value based on the *degree of match* between a search query and an advertisement.

As can be appreciated from the foregoing, the Radwin publication does not describe scoring advertisements based on a **degree of match** between a query and characteristics of the advertisements, nor does it describe **applying thresholds to ranked or scored advertisements**.

Group I: Claims 2-5, 15-18 and 30

Independent claims 2, 15 and 30 are not anticipated by the Radwin publication because the Radwin publication does not teach scoring advertisements according to a **degree of a match** between the query and the characteristics of the identified advertisements. In rejecting original claims 2 and 16 which recited this feature, the Examiner cited paragraphs [0040], [0041] and [0046] of the Radwin publication as teaching this feature. The cited paragraphs concern an ad repository 20, such as the one illustrated in Figure 5 of Radwin. Apparently, in the Radwin publication, ads may be selected as a function of an associated keyword flag 45 and/or an importance weight 47.

As can be appreciated from the data structure of Figure 5, the keyword flag 45 and/or the importance weight 47 are already associated with the ad before a search query is processed, and are therefore independent of a **degree of match** between an ad and a search query.

As discussed above, the keyword flag 45 indicates whether a specific advertisement is to be presented when a certain search term is used to provide the results of a search query. As also discussed above, the ad importance weighting value 47 is either set automatically, or by an editorial staff member, to indicate how valuable and/or

relevant a particular ad type or ad is relative to other ad types and ads. ***Neither describes a degree of match between a query and characteristics of an ad.***

In the "Response to Arguments" section of Paper No. 20060925, the Examiner argues that the claim does not mention that the matching has to be non-Boolean, and therefore the "broadest interpretation" of the claim reads on an association (or not) between a keyword and an advertisement. (See Paper No. 20060925, page 9.) The Examiner also argues that the Radwin publication teaches importance weight factors influencing a matching output, citing paragraphs [0040], [0041] and [0067]. (See Paper No. 20060925, page 9.) The appellant respectfully disagrees with each of these arguments for reasons discussed below.

First, the Examiner's "broadest interpretation" analysis of the claim language is improper. MPEP 2111 correctly states that during patent examination, the pending claims must be given their broadest ***reasonable interpretation consistent with the specification and consistent with the interpretation that those skilled in the art would reach.*** Applying an improper standard, the Examiner concluded that "***degree of match***" reads on whether or not a match between a keyword and an advertisement exists. ***This interprets "degree of match" as simply "match", improperly rendering the "degree of" modifier superfluous.*** The specification is consistent with the ordinary meaning of "degree" as an extent, measure, scope or the like. For example, the specification states:

The indexer 35 executes an advertisement search by evaluating the query 39 against the information and characteristics maintained in the advertisements 45. ***Upon completing the advertisement search, the indexer 35 generates a set of advertising results 43, which contain the advertising excerpts 46, by applying the terms 40 specified in the query 39 to the stored information and characteristics.*** In a further embodiment of the invention, the query 39 can be expanded by integrating additional information, such as category names 51 of products or services, or through a combination of actual content and category names 51. [Emphasis added.]

Page 8, lines 24-31. Thus, the indexer may be used to find a set of ads matching query terms. The specification further states:

In one implementation, the indexer 35 can identify thousands or even millions of advertising results 43, so only a subset of the advertising results 43, such as, in this implementation, between 100 to 10,000, are retained as the most promising advertising results 43. ***The most promising advertising results 43 are then ranked or scored by degree of match to the terms 40 of the query 39.*** The advertising results 43 can be numerically scored to reflect a relative quality or relevance of match.

The scorer 36 assigns a numerical score 44 to each advertising result 43 for indicating a quality of match. The numerical score 44 is matched to the advertising result 43 in an advertisement score tuple, as further described below with reference to FIGURE 4. The numerical scores 44 can then be sorted and evaluated against a

predefined threshold to filter the advertising results 43. *The numerical score 44 can be based on the degree of match to the actual content of each advertisement 45, to a category names 51 of products or services to which the advertisement 45 is associated, or by a combination of actual content and category names 51.* Preferably, the scored advertising results 43 are sorted by score 44 and those advertising results 43 failing to meet a predefined threshold are eliminated from further consideration. [Emphasis added.]

Page 9, line 19 through page 10, line 5. As can be appreciated from the foregoing, since the *"degree of match"* should be interpreted as the extent or measure of the match between an ad and query terms, it is different from the "match or no match" "Boolean" purportedly taught by the Radwin publication.

Second, the paragraph [0067] of the Radwin publication cited by the Examiner discusses using an importance weighting value of two or more corresponding advertisements in order to determine which of the ads is to be presented. However, this does not concern using a *"degree of match"* between a query and characteristics of the identified ad, but rather concerns using an "importance weight" (which is independent of the query).

Referring once again to paragraph [0041] and Figure 5 of the Radwin publication, an ad importance weighting value 47 is either set automatically, or by an editorial staff member, to indicate how valuable and/or relevant a particular ad type or ad is relative to other ad types and ads. The importance weighting value 47 of a particular ad associated with an ad type might be

adjusted based on external events or the significance of an ad. For example, if the number of impressions of an ad under a CPM arrangement is predicted to be below a guaranteed minimum, an appropriate ad importance weighting value may be assigned to that ad. If a higher importance weighting is assigned to the ad, the ad will have a relatively higher probability of being selected than otherwise. For example, as shown in Figure 5, since advertisements A1 and An are not keyword advertisements, they have a lower probability of being presented as a keyword flagged A2. Since, however, An has been assigned an importance weighting of 9, it might be shown before advertisement A1. Other weighting factors might override the importance weighting or be combined with it to form an overall weighting. (See, e.g., paragraph [0041].)

As can be appreciated from the foregoing, the Radwin publication does not describe scoring advertisements based on a *degree of match* between a query and characteristics of the advertisement, nor does it describe applying thresholds to ranked or scored advertisements.

Thus, independent claims 2, 15 and 30 are not anticipated by the Radwin publication for at least the foregoing reasons. Since claims 3-5 depend, either directly or indirectly, from claim 2 and since claims 17, 18 and 21 depend from claim 15, these claims are similarly not anticipated by the Radwin publication.

Group II: Claim 8

Independent claim 8 is not anticipated by the Radwin publication because the Radwin publication does not teach a ranker to rank the identified advertisements using a

selection criteria and ordering at least some of the ranked identified advertisements, and a selector to select at least some of the ordered identified advertisements relative to a ranking cutoff. The Examiner again cites paragraphs [0040] and [0041] of the Radwin publication as teaching this feature. However, the appellant respectfully submits that there is no ranking cutoff applied in the Radwin publication.

In the "Response to Arguments" section of Paper No. 20060925, the Examiner argues that the "guarantee minimum" of the Radwin publication teaches the claimed "ranking cutoff," citing paragraph [0041]. (See Paper No. 20060925, pages 9 and 10.) The Examiner further argues that the Radwin publication teaches changing the importance weight factor to increase a particular advertisement above a cutoff. (See Paper No. 20060925, page 10.) The appellant respectfully disagrees.

The "guarantee minimum" in the Radwin publication referred to by the Examiner concerns a minimum number of ad impressions per month (apparently pursuant to an arrangement or contract agreement with an advertiser), not a ranking cutoff used to select ranked ads. Further, the Radwin publication does not teach changing the importance weight factor to increase an advertisement above a ranking cutoff. In the claimed invention, the identified advertisements are ranked using a selection criteria and at least some of the ranked identified advertisements are ordered. Then, at least some of the ordered identified advertisements are selected relative to a ranking cutoff. These acts are **not** taught by the guarantee minimum discussed in the Radwin publication.

Accordingly, claim 8 is not anticipated by the Radwin publication for at least the foregoing reason.

Group III: Claims 9-11

First, since claims 9-11 depend, either directly or indirectly, from claim 8, these claims are not anticipated by the Radwin publication for at least the reasons discussed above (See Group II.) with reference to claim 8.

In addition, dependent claim 9 further recites an evaluator to **evaluate the selection criteria** based on at least one of a fixed cost, variable cost, and random factor associated with one or more of the identified advertisements. The Examiner cites paragraphs [0003] and [0004] of the Radwin publication as teaching this feature. The appellant respectfully disagrees.

Although the cited paragraphs mention advertising contracts and per impression fees (CPM), such contracts might be used to help select an advertisement. (See, e.g., paragraph [0041] of the Radwin publication.) This information is **not** used to evaluate selection criteria as claimed. Therefore, claim 9 is not anticipated by the Radwin publication for at least this additional reason. Since claims 10 and 11 depend from claim 9, these claims are similarly not anticipated by the Radwin publication.

Group IV: Claims 23-25

First, since claims 23-25 depend, indirectly, from claim 15, these claims are not anticipated by the Radwin publication for at least the reasons discussed above (See Group I.) with reference to claim 15.

Also, dependent claim 23 further recites **evaluating the selection criteria** based on at least one of a fixed cost, variable cost, and random factor associated with one or more of the identified advertisements. The Examiner cites paragraphs [0003] and [0004] of the Radwin publication as teaching this feature. However, as discussed above (See Group III.) with reference to claim 9, the cited paragraphs mention advertising contracts and per impression fees (CPM), such contracts might be used to help select an advertisement. (See, e.g., paragraph [0041] of the Radwin publication.) This information is not used to evaluate selection criteria as claimed. Therefore, claim 23 is not anticipated by the Radwin publication for at least this additional reason. Since claims 24 and 25 depend from claim 23, these claims are similarly not anticipated by the Radwin publication

Group V: Claims 12-14 and 26-28

First, since claims 12-14 depend, either directly or indirectly, from claim 2 and since claims 26-28 depend, either directly or indirectly, from claim 15, these claims are not anticipated by the Radwin publication for at least the reasons discussed above (See Group I.) with reference to claims 2 and 15.

Also, dependent claim 12 further recites an advertising creative generator to generate an advertising creative based on the characteristics of at least one such identified advertisement. The Examiner cites paragraphs [0040] and [0041] of the Radwin publication as teaching this feature. The appellant respectfully disagrees.

The cited paragraphs of the Radwin publication discuss the data structure of an "ad repository", as well as the use of an "importance weighting value" in determining the ad. This does not pertain to **generating an advertising creative**.

An advertising creative is understood by those skilled in the art to mean the content rendered to, and perceived by, a user or users. This generally accepted meaning is consistent with the discussion of "advertising creatives" in the specification. For example, the specification states:

Finally, **the optional advertising creative generation component 50 builds Web-based advertising creatives for inclusion in the advertisement sets 42 or advertisements 45. Briefly, the advertising creative generation component 50 uses the terms 40 that constitute each query 39 to help identify and summarize the product or service information contained within advertising excerpts 46 into advertising creatives, such as further described below with reference to FIGURES 5A-C. In a further embodiment of the invention, the optional advertising creative generation component 50 generates advertising creatives based on the category names 51 and can use any other type or source of information describing the products or services.** The generated advertising creative is then provided to the advertising server 22 for inclusion with or in lieu of the Web content 24, news messages 25, and other content 27. [Emphasis added.]

Page 11, lines 3-14. The specification also states:

Advertising Creatives

FIGURES 5A-C are diagrams showing, by way of example, advertising creatives 90, 93, 96 for use by the targeting and advertising creative generator 31 of FIGURE 2. An advertising creative provides information about a product or service and can include text, images, sounds, and other content. An advertising creative can summarize the product or service information contained within corresponding advertising excerpts 46. In a further embodiment of the invention, an advertising creative can be based on the category names 51 or can be based on any other type or source of information describing the products or services.

An advertising creative need not follow a prescribed form and the format adopted by a particular advertising creative will depend in part upon the size and display characteristics of the Web page upon which the advertising creative will be provided. Standardized advertising creatives facilitate placement of multiple advertisements on a given Web page. In general, when provided as standardized Web-based advertisements, each advertising creative includes a product name and a body. The product name is preferably visually distinct from the body and can be presented, for example, in a larger type size with underlining, or in any other format suitable for display as Web-based content. The body presents additional information and can non-exclusively include an extended product name, description, category name, and merchant information. The body can be presented, for example, in a smaller type size, or in any other format suitable for display as Web-based content. Both the product name and body can include hyperlinks

referencing further Web content. Additionally, the entire advertising creative can be provided in a frame and visually accented through the careful use of color in the text and frame. Finally, an advertising creative can include images and can be provided as freeform text, in addition to or in lieu of the two-part format.

Each of the advertising creatives 90, 93, 96 can be included in the advertisement sets 42 as part of an advertising creative tuple 101, as further described below with reference to FIGURE 6. ***The optional advertising creative generation component 50 can build advertising creatives for inclusion in the advertisement sets 42 or advertisements 45.*** In a further embodiment of the invention, advertising creatives are specified relative to an advertisement 45, either directly by including an advertising creative with the advertisement 45, or indirectly, such as through a hyperlink associated with the advertisement 45. Alternatively, the corresponding advertising excerpt 43 can include hints or predefined text, which could be used as an advertising creative. As well, advertising creatives can be precomputed or cached.

In the described embodiment, each advertising creative 90 is provided as Web content written in a suitable variant of a hypertext markup language, such as the Hypertext Markup Language (HTML). [Emphasis added.]

Page 14, line 14 through page 15, line 23. Examples of advertising creatives are illustrated in Figures 5A-5C.

On the other hand, the Radwin publication apparently uses predetermined advertising creatives, and therefore has no need to generate such creatives. Thus, dependent

claim 12 is not anticipated by the Radwin publication for at least this additional reason.

Group VI: Claims 19 and 22

First, since claims 19 and 22 depend, indirectly, from claim 15, these claims are not anticipated by the Radwin publication for at least the reasons discussed above (See Group I.) with reference to claim 15.

Also, dependent claim 19 further recites selecting at least some of the sorted identified advertisements relative to a predefined threshold. Dependent claim 22 further recites selecting at least some of the ordered identified advertisements relative to a ranking cutoff. The Examiner cites paragraphs [0040] and [0041] of the Radwin publication as teaching this feature. The appellant respectfully disagrees.

The cited paragraphs of the Radwin publication discuss the use of an advertisement's "importance weighting value" in selecting an advertisement. It does *not* teach applying sorted and/or ordered advertisements to a predefined threshold or ranking cutoff. The discussion above (See Group II.) with reference to claim 8 is applicable here as well. Therefore, these claims are not anticipated by the Radwin publication for at least this additional reason.

Rejections under 35 U.S.C. § 103

Claims 6 and 20 stand rejected under 35 U.S.C. § 103 as being unpatentable over the Radwin publication. The appellant respectfully requests that the Board reverse this ground of rejection in view of the following.

The Examiner concedes that the system described in the Radwin publication does not include a filter for filtering identified ads relative to at least one of a country, a locale, a language and a daily budget. In an attempt to compensate for this admitted deficiency, the Examiner notes that paragraph [0007] of the Radwin publication discloses that using demographic profiling is known in the art. The Examiner then concludes that it would have been obvious to modify the system taught by the Radwin publication to include the claimed filter in order to enhance the efficiency of the targeted ads by focusing the selection and ensuing delivery of the ads to users who are more likely to purchase the items advertised.

The appellant respectfully disagrees with the Examiner's conclusion in view of the express "teaching away" of the proposed modification in the Radwin publication. Specifically, the very next paragraph (paragraph [0008]) of the Radwin publication notes the "significant drawbacks" of using demographics for purposes of serving ads. As one example, the Radwin publication notes that users sometimes provide inaccurate information about their demographics. As another example, the Radwin publication notes that demographic ad targeting is impaired by inaccurate underlying assumptions. (See, e.g., paragraph [0008].) In view of the express teaching away from the use of demographic information for ad serving decisions in the Radwin publication, the appellant respectfully submits that the one skilled in the art would not have been motivated to modify the system of the Radwin publication as proposed by the Examiner.

In the "Response to Arguments" section of Paper No. 20060925, the Examiner argues that the claims recite "at least one of a country, locale, language, and daily budget," and that none of these features are mentioned in the Radwin publication as concerning demographic characteristics. The Examiner then concludes that the appellant's argument is therefore not directed to the features of the claims. (See Paper No. 20060925, page 10.) The Examiner's conclusion is irrelevant since the appellant's argument is directed to **the Examiner's rationale for modifying the Radwin publication**, not to features of the claims. It is the Examiner who cited paragraph [0007] of the Radwin publication as disclosing the use of demographic profiling.

If it is the Examiner's position that the use of demographic profile discussed in the Radwin publication does not pertain the claimed "country, locale, language, and daily budget," then the appellant respectfully submits that the Examiner has not made a *prima facie* showing of obviousness. If, on the other hand, it is the Examiner's position that the discussion of the demographic profiling in the Radwin publication somehow suggests the foregoing claimed features, the appellant reiterates the fact that the Radwin publication teaches away from the use of demographic information.

During a telephone interview, the Examiner clarified that it is his position that although the Radwin publication may teach away from the use of demographic information **by itself** in ad serving, it does not teach away from the use of demographic information **in combination with other information** in ad serving. The appellant disagrees.

One of the concerns of the Radwin publication was that users can intentionally provide inaccurate information about themselves. Such problems are not eliminated when demographic information is used in combination with other information for purposes of ad serving. Thus, the "significant drawbacks" of demographic ad targeting mentioned by the Radwin publication would still exist in an ad system that used demographics in combination with other information for serving ads. The appellant respectfully submits that **one skilled in the art would** understand from the Radwin publication that a user's actions (e.g., in terms of past search queries) are more important and useful than information that a user might enter about themselves, and would therefore **not be inclined to dilute or corrupt useful information with information with significant drawbacks.**

Thus, dependent claims 6 and 20 are not rendered obvious by the Radwin publication for at least the foregoing reason.

XIII. Claims appendix

An appendix containing a copy of the claims on appeal is filed herewith.

IX. Evidence appendix

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, nor is there any other evidence entered by the Examiner and relied upon by the appellant in the appeal.

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X. Related proceedings appendix

There are no decisions rendered by a court of the Board in any proceeding identified in section II above pursuant to 37 C.F.R. § 41.38 (c) (1) (ii).

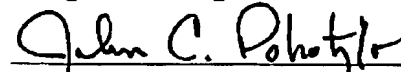
Conclusion

In view of the foregoing, the appellant respectfully submits that the pending claims are in condition for allowance. Accordingly, the appellant requests that the Board reverse each of the outstanding grounds of rejection.

Any arguments made in this Appeal pertain *only* to the specific aspects of the invention *claimed*. Any claim arguments, are made *without prejudice to, or disclaimer of*, the appellant's right to seek patent protection of any unclaimed (e.g., narrower, broader, different) subject matter, such as by way of a continuation or divisional patent application for example.

July 5, 2007

Respectfully submitted,



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**CLAIMS APPENDIX PURSUANT TO
37 C.F.R. § 41.37 (c) (1) (viii)**

Claim 1 (canceled)

1 Claim 2 (previously presented): A system for
2 automatically targeting Web-based advertisements,
3 comprising:
4 an indexer to identify advertisements relative to a
5 query, wherein identified advertisements describe
6 characteristics relative to at least one of a product and
7 a service;
8 a scorer to score the advertisements according to
9 match between the query and the characteristics of the
10 identified advertisements; and
11 a targeting component to provide at least some of
12 the advertisements as Web-based content, wherein a
13 numerical score is assigned to the identified
14 advertisements based on a degree of the match.

1 Claim 3 (original): A system according to Claim 2,
2 wherein the numerical score is determined relative to at
3 least one of a content match and a categorical match.

1 Claim 4 (original): A system according to Claim 2,
2 further comprising:
3 a sorter to sort at least some of the identified
4 advertisements by the numerical score.

1 Claim 5 (original): A system according to Claim 4,
2 further comprising:
3 a selector to select at least some of the sorted
4 identified advertisements relative to a predefined
5 threshold.

1 Claim 6 (previously presented): A system for
2 automatically targeting Web-based advertisements,
3 comprising:
4 an indexer to identify advertisements relative to a
5 query, wherein identified advertisements describe
6 characteristics relative to at least one of a product and
7 a service;
8 a scorer to score the advertisements according to
9 match between the query and the characteristics of the
10 identified advertisements;
11 a targeting component to provide at least some of
12 the advertisements as Web-based content; and
13 a filter to filter the identified advertisements
14 relative to at least one of a country, locale, language,
15 and daily budget.

Claim 7 (canceled)

1 Claim 8 (previously presented): A system for
2 automatically targeting Web-based advertisements,
3 comprising:
4 an indexer to identify advertisements relative to a
5 query, wherein identified advertisements describe

6 characteristics relative to at least one of a product and
7 a service;
8 a scorer to score the advertisements according to
9 match between the query and the characteristics of the
10 identified advertisements;
11 a targeting component to provide at least some of
12 the advertisements as Web-based content;
13 a ranker to rank the identified advertisements using
14 a selection criteria and ordering at least some of the
15 ranked identified advertisements; and
16 a selector to select at least some of the ordered
17 identified advertisements relative to a ranking cutoff.

1 Claim 9 (previously presented): A system according to
2 Claim 8, further comprising:
3 an evaluator to evaluate the selection criteria
4 based on at least one of a fixed cost, variable cost,
5 and random factor associated with one or more of the
6 identified advertisements.

1 Claim 10 (original): A system according to Claim 9,
2 wherein at least one of an acceptable fixed cost and
3 an acceptable variable cost is applied as the
4 selection criteria.

1 Claim 11 (original): A system according to Claim 9,
2 wherein at least one of the fixed cost and the
3 variable cost is provided as part of the
4 characteristics of the identified advertisements.

1 Claim 12 (previously presented): A system according
2 to Claim 2, further comprising:
3 an advertising creative generator to generate an
4 advertising creative based on the characteristics of
5 at least one such identified advertisement.

1 Claim 13 (original): A system according to Claim 12,
2 wherein the advertising creative is provided as part
3 of the at least some of the advertisements.

1 Claim 14 (previously presented): A system according
2 to Claim 12, wherein the advertising creative is
3 provided as at least one of a hint provided with at
4 least one such identified advertisement, predefined
5 text, a precomputed advertising creative, and a cached
6 advertising creative.

1 Claim 15 (previously presented): A method for
2 automatically targeting Web-based advertisements,
3 comprising:
4 identifying advertisements relative to a query,
5 wherein identified advertisements describe
6 characteristics relative to at least one of a product
7 and a service;
8 scoring the advertisements according to a degree
9 of a match between the query and the characteristics
10 of the identified advertisements; and
11 providing at least some of the advertisements as
12 Web-based content.

Claim 16 (canceled)

1 Claim 17 (previously presented): A method according
2 to Claim 15, further comprising:
3 determining the numerical score relative to at
4 least one of a content match and a categorical match.

1 Claim 18 (previously presented): A method according
2 to Claim 15, further comprising:
3 sorting at least some of the identified
4 advertisements by the numerical score.

1 Claim 19 (original): A method according to Claim 18,
2 further comprising:
3 selecting at least some of the sorted identified
4 advertisements relative to a predefined threshold.

1 Claim 20 (original): A method according to Claim 15,
2 further comprising:
3 filtering the identified advertisements relative
4 to at least one of a country, locale, language, and
5 daily budget.

1 Claim 21 (original): A method according to Claim 15,
2 further comprising:
3 ranking the identified advertisements using a
4 selection criteria; and
5 ordering at least some of the ranked identified
6 advertisements.

1 Claim 22 (original): A method according to Claim 21,
2 further comprising:
3 selecting at least some of the ordered identified
4 advertisements relative to a ranking cutoff.

1 Claim 23 (original): A method according to Claim 21,
2 further comprising:
3 evaluating the selection criteria based on at
4 least one of a fixed cost, variable cost, and random
5 factor associated with one or more of the identified
6 advertisements.

1 Claim 24 (original): A method according to Claim 23,
2 further comprising:
3 applying at least one of an acceptable fixed cost
4 and an acceptable variable cost as the selection
5 criteria.

1 Claim 25 (original): A method according to Claim 23,
2 further comprising:
3 providing at least one of the fixed cost and the
4 variable cost as part of the characteristics of the
5 identified advertisements.

1 Claim 26 (original): A method according to Claim 15,
2 further comprising:

3 generating an advertising creative based on the
4 characteristics of at least one such identified
5 advertisement.

1 Claim 27 (original): A method according to Claim
2 26, further comprising:
3 providing the advertising creative as part of the
4 at least some of the advertisements.

1 Claim 28 (previously presented): A method according
2 to Claim 26, further comprising:
3 providing the advertising creative as at least
4 one of a hint provided with at least one such
5 identified advertisement, predefined text, a
6 precomputed advertising creative, and a cached
7 advertising creative.

 Claim 29 (canceled)

1 Claim 30 (previously presented): An apparatus for
2 automatically targeting Web-based advertisements,
3 comprising:
4 means for identifying advertisements relative to a
5 query, wherein identified advertisements describe
6 characteristics relative to at least one of a product
7 and a service;
8 means for scoring the advertisements according to a
9 degree of a match between the query and the
10 characteristics of the identified advertisements; and

- 11 means for providing at least some of the advertisements
- 12 as Web-based content.

**EVIDENCE APPENDIX PURSUANT TO
37 C.F.R. § 41.37 (c) (1) (ix)**

There is no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, nor is there any other evidence entered by the Examiner and relied upon by the appellant in the appeal.

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**RELATED PROCEEDINGS APPENDIX PURSUANT
TO 37 C.F.R. § 41.37 (c) (1) (x)**

There are no decisions rendered by a court of the Board in any proceeding identified in section II of the Substitute Supplemental Appeal Brief pursuant to 37 C.F.R. § 41.37 (c) (1) (ii).